



## **Hillary Schwab**

**Employment lawyer relishes victory in restaurant tips cases**

**By: Eric T. Berkman**

Boston employment lawyer Hillary Schwab has achieved notoriety for putting food back on the table of those who put food on yours — restaurant wait staff.

Working with her partner, Shannon Liss-Riordan, Schwab proved in separate cases that two restaurants, the Hilltop Steak House in Saugus and The Federalist in Boston, violated the Massachusetts tip law by imposing service charges at functions but withholding the proceeds from servers who staffed those functions.

Schwab is proud of both verdicts, but she particularly savors The Federalist case.

“I was first chair in the case and did most of the examining and preparation for trial,” she says. “But more importantly, this was a case where the jury awarded us a full victory, saying that not only should the service charge have gone to the servers but that, even when they called the charge an ‘administrative fee’ in some instances, it still should have gone to the servers.”

She says the latter point is especially significant because restaurants often try to evade the tip law by labeling gratuity charges by other names.

“The jury understood that if something looks like a tip and acts like a tip, it is a tip,” she says.

(The amount of the judgment had not been determined at press time.)

More recently, Schwab has been in the news for expanding tip litigation beyond the restaurant industry.

In April, she and Liss-Riordan obtained a \$325,000 verdict for eight skycaps at Boston’s Logan International Airport whose income plummeted when their employer, American Airlines, imposed a \$2 fee for each piece of luggage checked curbside. Passengers, incorrectly thinking the fees were going to the skycaps, stopped giving tips.

A federal jury found that the practice violated the tip law.

“Skycaps had relied on tips as income for decades and were devastated,” says Schwab. “It was a compelling story that resonated with jurors.”

American responded to the verdict with a blanket no-tipping policy but has since lifted the ban.

Meanwhile, Schwab, who maintains a broad employment practice, says he tips cases are especially challenging because workers have a gnawing fear of retaliation and blacklisting, particularly in the tight-knit restaurant industry.

“But to me, it’s always exciting to get these people paid back,” she says. “They’re getting back the money they earned to begin with.”

AGE: 34

GRADUATED: Columbia Law School, 1999

POSITION: Partner, Pyle, Rome, Lichten, Ehrenberg & Liss-Riordan, Boston

One thing about her that might surprise people: She rides a track bike without brakes.